

REMARKS/ARGUMENTS

Re-examination and favorable reconsideration in light of the above amendments and the following comments are respectfully requested.

Claims 16 - 28 are pending in the application. Currently, all claims stand rejected.

By the present amendment, claims 16 - 28 have been cancelled without prejudice in favor of new claims 29 - 44.

In the office action mailed September 15, 2008, claims 16 - 28 were rejected under 35 U.S.C. 112, first paragraph as failing to comply with the enablement requirement; claims 16 - 28 were rejected under 35 U.S.C. 112, second paragraph as being indefinite; claims 16 - 19 were rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,409,342 to Galli; claims 16, 17, 19 - 23, and 25 - 27 were rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 4,820,101 to Fenn; and claims 24 and 28 were rejected under 35 U.S.C. 103(a) as being unpatentable over Fenn.

The foregoing rejections are traversed by the instant response.

In the office action mailed September 15, 2008, the Examiner objected to the Drawings. Attached hereto are revised sheets of drawings showing each of the elements set forth in the objection. The Examiner is hereby requested to approve the corrected drawings. The specification has been amended in light of the amendments to the drawings. No new matter has been added to the case.

With respect to the rejection of claims 16 - 28 under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement, it is submitted that the

invention as claimed can be made by one of ordinary skill in the art without undue experimentation. For example, the picking up and transferring of the goods can be controlled by a preprogrammed processor which is connected to a sensor or scales connected to the forks which measures the weight of the goods being picked up. The computer can be preprogrammed to know the weight of an individual item being picked up and can compute the quantity from the measured weight. All of this can be done by one of skill in the relevant field without any undue experimentation. Unless the Examiner can explain why undue experimentation is required, the rejection should be withdrawn.

With respect to the rejection of claims 16 - 28 under 35 U.S.C. 112, second paragraph, this rejection is now moot in view of new claims 29 - 44.

New claim 29 is directed to a method for picking up, transferring, and transporting different goods which are located in a store comprising the steps of: providing a vehicle moveable along storage aisles; moving said vehicle to a predetermined pick location under fully automatic control for at least one of picking up and transferring goods at said predetermined pick location; fully automatically controlling said at least one of picking up and transferring goods using a vehicle control; said controlling step comprising determining a weight and a quantity of said goods to be picked up or transferred on the vehicle using a weighing device and a device for controlling said quantity both controlled by the vehicle control; and comparing the weight and quantity of said goods to be picked up or transferred with predetermined values for said weight and said quantity.

Galli shows an automated system for transporting, loading and unloading articles. In the system, a trolley 13 transfers goods from a rotary store to a work area where the goods will be merchandised. The vehicle however does not perform the method of the present invention. While Galli describes providing the trolley with scales for weighing the articles transported, the weighing information is used to prepare coloring agents. Galli however does not disclose or suggest determining the quantity of the goods and comparing both weight and quantity to a predetermined weight and quantity as part of the control process.

Fenn shows an automated storage and retrieval system with a storage retrieval crane designated to store and retrieve only pipes transported in containers at a pipe manufacturing facility. According to Figure 1, the computer 6 is arranged within the store as a stand alone. The weight gauge 302 is part of the crane and provides the computer 6 with information concerning the weight of the whole container. The system of Fenn can only be used with a single good, namely pipes, having a predetermined shape and weight. There is no relation between the number of pipes encountered by a separate device and the weight of each tube. There is also no control in the relation of the number of tubes and the whole weight and a comparison in order to control whether there are the exact number of tubes in the container. Further, the computer, the weight gauge and the encountering device are not arranged together on a vehicle. Fenn et al. only discloses use of a weight gauge attached at a trolley of the crane. Fenn et al. only derives from the weight information whether the containers have been properly loaded or unloaded. Fenn et al. does

not monitor quantity. Further the system of Fenn can not be used in a store used to commission different products and monitor if the right product has been picked up or transferred to the right location.

Thus, neither Galli nor Fenn anticipates the method of new claim 29 or renders it obvious.

The main difference between the cited and applied references and the invention set forth in the claims is that with the method and system of the present invention, it is possible to monitor if the right articles (goods) have been selected in an effective and inexpensive way, namely by monitoring the weight and the quantity of the picked up and transferred goods and by comparing this with a desired value.

With regard to new system claim 36, this claim is directed to a system for picking up, transferring, and transporting different goods which are located in a store, said system comprising: a vehicle moveable along storage aisles in said store; means for causing said vehicle to travel to a predetermined location for picking up or transferring goods at said location; said means for causing said vehicle to travel to said predetermined location comprising at least one of a vehicle control and a central controller; means for determining a weight and a quantity of goods to be picked up or transferred by the vehicle; said determining means comprising a weighing device and a device for controlling the quantity of picked-up or transferred goods both controlled by said vehicle control and means for comparing the weight and the quantity to predetermined values; and a rail guide for guiding an electric overhead suspended track provided in the storage

aisles and said vehicle being movably attached to said rail guide.

Claim 36 is allowable for the same reasons as claim 29.

The remaining claims are each allowable for the same reason as their parent claim(s) as well as on their own accord.

For the foregoing reasons, the instant application is believed to be in condition for allowance. Such allowance is respectfully solicited.

Should the Examiner believe an additional amendment is needed to place the case in condition for allowance, he is hereby invited to contact Applicant's attorney at the telephone number listed below.

A request for a two month extension of time is enclosed herewith. The Director is hereby authorized to charge the extension of time fee of \$490.00 to Deposit Account No. 02-0184.

If the Director believes an additional fee is due, he is hereby authorized to charge said fee to said Deposit Account No. 02-0184.

Respectfully submitted,  
Jurgen Baumle et al.

By/Barry L. Kelmachter #29999/  
Barry L. Kelmachter  
BACHMAN & LaPOINTE, P.C.  
Reg. No. 29,999  
Attorney for Applicants  
Telephone: (203) 777-6628  
Telefax: (203) 865-0297  
Email: docket@bachlap.com

Dated: February 13, 2009